

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

RALPH SCHWARZ,

Plaintiff,

V.

U.S. FOODSERVICE, INC.,

Defendant.

CIVIL ACTION NO. 05-10331-EFH

STIPULATION OF DISMISSAL

The Plaintiff, Ralph Schwarz, and the Defendant, U.S. Foodservice, Inc., hereby stipulate and agree, pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii), that this action is hereby dismissed, with prejudice and without costs and/or fees.

Respectfully submitted,

**THE PLAINTIFF,
RALPH SCHWARZ**

By his attorney,

**THE DEFENDANT,
U.S. FOODSERVICE, INC.**

By its attorneys,

/s/ Frank P. Spinella, Jr.

Frank P. Spinella, Jr. (BBO# 566536)
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/s/ John P. McLafferty

John P. McLafferty (BBO# 639179)
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Dated: September 6, 2006

CERTIFICATE OF SERVICE

I, John P. McLafferty, do hereby certify that on this 6th day of September, 2006, I electronically filed this Stipulation of Dismissal using the CM/ECF system which will send notification of such filing(s) to the following: Frank P. Spinella, Jr., Hall, Morse, Anderson, Miller & Spinella, P.C., 14 Centre Street, P.O. Box 2289, Concord, NH 03302-2289.

/s/ John P. McLafferty

John P. McLafferty